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*Attorneys for Defendant/Counterclaimant  
Midwest Industrial Supply, Inc.*

**UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF ARIZONA**

SOILWORKS, LLC, an Arizona corporation,

NO.: 2:06-CV-2141-DGC

Plaintiff / Counterdefendant /  
Counterclaimant,

V.

MIDWEST INDUSTRIAL SUPPLY,  
INC., an Ohio corporation authorized to do  
business in Arizona,

## **MIDWEST INDUSTRIAL SUPPLY, INC.'S PROPOSED VERDICT FORMS**

Defendant / Counterclaimant /  
Counterdefendant.

## **VERDICT FORM #1**

1. Do you find by the greater weight of the evidence that Midwest advertised a false or misleading statement of fact about Soilworks or Soilworks' products which deceived Soilworks' customers and injured Soilworks?

Yes                                  \_\_\_\_\_ No

If your answer was Yes, please proceed to verdict form #2. If your answer was No, please proceed to verdict form # 4.

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**VERDICT FORM # 2**

2        2.     Do you find, by clear and convincing evidence, that Midwest made the  
3 statements in bad faith?  
4

5         Yes

6         No

7        If your answer is Yes, please proceed to Verdict Form #3. If your answer is No, please  
8 proceed to Verdict Form #4.  
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2                   **VERDICT FORM #3**  
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5         3.     Do you find that Soilworks is entitled to damages for its false advertising  
6  
7         claim against Midwest?  
8  
9

10         \_\_\_\_ Yes                                  \_\_\_\_ No  
11  
12

13         If your answer is Yes, please fill in the amount of damages you believe Soilworks is  
14         entitled to:  
15  
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17         \$\_\_\_\_\_  
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20         Please proceed to Verdict Form #4  
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**VERDICT FORM # 4**

2        4.     Do you find by the greater weight of the evidence that Soilworks advertised  
3  
4 a false or misleading statement of fact about Soilworks' own products which deceived  
5 Midwest's customers and injured Midwest?

6         Yes

7         No

8        Please proceed to Verdict Form #5.

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**VERDICT FORM #5**

2        5.     Do you find that Midwest is entitled to damages for Soilworks' trademark  
3 infringement?  
4

5         Yes

6         No

7 If your answer is yes, please indicate the amount of damages Midwest is entitled to:  
8

9        Actual Damages \$\_\_\_\_\_

10      Soilworks' Profits \$\_\_\_\_\_

11      Enhanced Damages (up to treble the amount) \$\_\_\_\_\_

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13 Please proceed to Verdict Form #6.

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2                   **VERDICT FORM # 6**  
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5         6.     Do you find by the greater weight of the evidence that Soilworks infringed  
6     the Midwest Patents?  
7  
8

9          Yes                    No  
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12         If your answer is Yes, please indicate amount of damages Midwest is entitled to:  
13  
14

15         Lost Profits \$ \_\_\_\_\_  
16  
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18         Reasonable Royalty \$ \_\_\_\_\_  
19  
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21         Please proceed to Verdict Form # 7.  
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## **VERDICT FORM # 7**

7. Do you find that Soilworks was unjustly enriched by its business practices to the detriment of Midwest?

Yes

No

If your answer is yes, please indicate the amount of Soilworks' unjust enrichment:

\$ \_\_\_\_\_

Please proceed to Verdict Form # 8.

1  
2                   **VERDICT FORM # 8**  
3

4                   Total Verdict Form  
5

6       8(a). You find for Soilworks and against Midwest in the total amount of  
7  
8       \$\_\_\_\_\_.

9       8(b). You find for Midwest and against Soilworks in the total amount of  
10      \$\_\_\_\_\_.

1 By: /s/ Jill A. Bautista  
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21 *Attorneys for Defendant/Counterclaimant*  
22 *Midwest Industrial Supply, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **MIDWEST INDUSTRIAL SUPPLY, INC.'S PROPOSED VERDICT FORMS** has been electronically filed on this 19th day of September, 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Jill A. Bautista  
Jill A. Bautista